Supreme Court, U.S.
FILED
05-647 NOV 16 2005
OFFICE OF THE CLERK

No.

IN THE

Supreme Court of the United States

MILMA GARCIA RAMOS,

Petitioner,

v.

1199 HEALTH CARE EMPLOYEES PENSION FUND AND THE TRUSTEES OF THE 1199 HEALTH CARE EMPLOYEES PENSION FUND

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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QUESTIONS PRESENTED

1. Where a disabled worker sues under the Employee Retirement Income Security Act (ERISA), whose principal remedial purpose is the protection of the pension expectations of workers and theirdependents and which requires pension plans to be administered solely in their interest: when, in the absence of equitable relief, the disabled worker will forfeit part of her retroactive benefit due to the lateness of her pension application, may a district court refuse to apply equitable tolling to prevent the forfeiture when the court has been presented with uncontradicted evidence that the only reason for her lateness was the same debilitating impairment that is the basis of her eligibility?

2. If a district court may refuse to apply equitable tolling because it finds there to be a factual dispute concerning the presence of circumstances warranting that relief, may a district court also refuse to hold an evidentiary hearing to determine if such circumstances are present?

3. If there is direct precedential authority for using equitable tolling to avoid a complete forfeiture of pension benefits but not to avoid a partial forfeiture of benefits, was it proper for the district court to refuse to develop federal common law to avoid a partial forfeiture of Petitioner's benefits (and a corresponding unjust enrichment of Respondent pension plan) to provide "other appropriate relief" pursuant to Section 502(a)(3) of ERISA, 29 U.S.C. § 1132(a)(3)?

4. May equitable tolling be applied to a statutory or contractual time limit which, if exceeded, would by its terms require only a partial reduction in the monies awarded to a party?

PARTIES TO THE PROCEEDING BELOW

Milma Garcia-Ramos; the 1199 Health Care Employees Pension Fund; the trustees of the 1199 Health Care Employees Pension Fund.

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